



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/515,809	02/29/2000	Steve Trong	CISCO-1937	9991

7590  
Timothy A Brisson  
Sierra Patent Group Ltd  
PO Box 6149  
Stateline, NV 89449

02/08/2006

EXAMINER

BROWN, CHRISTOPHER J

ART UNIT	PAPER NUMBER
----------	--------------

2134

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/515,809	Applicant(s) TRONG, STEVE	
	Examiner Christopher J. Brown	Art Unit 2134	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 11/18/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5-9, 11, 13 and 14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5-9, 11, 13, 14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 11/18/2005 have been fully considered but they are not persuasive.

The applicant argues against the Housel reference US 5,907,678 stating "Housel teaches storing the data transmitted over a connection and the claimed invention is storing data about the connection as is shown by storing of the base layers". The examiner agrees that Housel's data is transmitted and stored, but there is nothing that precludes the transmitted and stored information to also be about the connection itself. In this instance, Housel teaches that the checkpointed data contains protocol information about the connection.

### ***Claim Rejections - 35 USC § 112***

2. Claims 1, and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 1, and 9 state "base layer" This term is not a term known to one of ordinary skill in the art. The examiner can find support for this term in the specification only on page 5 lines 2, 14, page 16 line 14, and

Art Unit: 2134

page 19 lines 14-17. The examiner cannot find any definition in the specification for the term “base layer” only that the base layer is in the checkpoint server.

Claim 13 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 13 states checkpointing data *consists* of connection information but does not state unique connection identifiers. Since the nature of a consisting claim is close ended, this claim is viewed as new matter. The specification Figure 5A shows a checkpoint memory space with connection information and unique IDs.

Claims 1, and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. As per claim 1, the claim uses “consists” in two separate areas, on page 1 line 11, and on page 2 line 4. The items included in the consisting statements differ. It is unclear which consisting statement the applicant wished to utilize.

Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 7 states “consisting of data associated

Art Unit: 2134

with said connection” It is unclear what the applicant means by the term “associated”. The term associated is indefinite to the point where it could be interpreted in a variety of different ways. Appropriate correction is required.

Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 states “consisting of data regarding said connection” It is unclear what the applicant means by the term “regarding”. The term associated is indefinite to the point where it could be interpreted in a variety of different ways. Appropriate correction is required.

Claims 3, 6, 8, 11, 12, and 14 are rejected due to their dependence on rejected independent claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

**Claims 1 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housel III US 5,907,678 in view of Mankude US 6,735,205.**

As per claims 1 and 9,

Art Unit: 2134

Housel III teaches a communication system having a checkpointing server, (Col 14 lines 15-33). Housel III teaches having unique identifiers, and connection information (protocol) (Col 16 lines 35-39, Col 17 lines 20-26). Housel III teaches determining whether there has been a change of state for an existing connection, (Col 14 lines 15-22). Housel teaches checkpointing data with said unique identifier and using checkpointed data to re-establish connection in said communication system, (Col 14 lines 20-33). Housel teaches that a router is part of the communications network, (Col 1 line 35).

Housel does not teach storing checkpoint information on the router or checkpoint server.

Mankude teaches that in addition to storing the checkpoint information on a server, to store the check point information on a third node, (Col 6 lines 50-55). It would have been obvious to one of ordinary skill in the art to use the checkpointing of Mankude with the system of Housel because Mankude provides high availability.

**Claims 3, 5-8, 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Housel III US 5,907,678 in view of Friedman US 6,151,679 in view of Mankude US 6,735,205.**

As per claims 5, 6, 7, and 13, Housel III teaches a communication system having a checkpointing server, (Col 14 lines 15-33). Housel III teaches having unique

Art Unit: 2134

identifiers, (Col 16 lines 35-39). Housel III teaches determining whether there has been a change of state for an existing connection, (Col 14 lines 15-22). Housel teaches checkpointing data with said unique identifier and using checkpointed data to re-establish connection in said communication system, (Col 14 lines 20-33). Housel teaches that a router is part of the communications network, (Col 1 line 35).

Housel does not teach firewalls. Housel III does not teach encoding said checkpoint data.

Friedman teaches the use of routers as firewalls in a communications system, (Col 4 lines 8-13). Friedman teaches encrypting data through the router, (Col 4 lines 13-16).

It would have been obvious to one of ordinary skill in the art to encrypt the checkpointed data so that it was protected from tampering, thus enhancing system security.

Mankude teaches that in addition to storing the checkpoint information on a server, to store the check point information on a third node, (Col 6 lines 50-55). It would have been obvious to one of ordinary skill in the art to use the checkpointing of Mankude with the system of Housel because Mankude provides high availability.

Art Unit: 2134

As per claims 3, 6, 8, 11, and 14, Housel teaches recovering checkpointed data to reestablish a connection, (Col 14, lines 20-33). Housel teaches use of a router in communications, (Col 1 line 35). Housel does not teach firewalls.

Friedman teaches the use of routers as firewalls in a communications system, (Col 4 lines 8-13).

It would have been obvious to one of ordinary skill in the art to use the firewall router of Friedman in the checkpoint system of Housel to protect clients from hackers and viruses.

Mankude teaches that in addition to storing the checkpoint information on a server, to store the check point information on a third node, (Col 6 lines 50-55). It would have been obvious to one of ordinary skill in the art to use the checkpointing of Mankude with the system of Housel because Mankude provides high availability.

### *Conclusion*

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Brown whose telephone number is (571)272-3833. The examiner can normally be reached on 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse can be reached on (571)272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 2134

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher J. Brown

02/03/06

A handwritten signature in black ink, appearing to be 'CJB', with a large loop and a horizontal stroke.A handwritten signature in black ink, appearing to be 'Gilberto Barron Jr.', with a checkmark at the end.

GILBERTO BARRON JR.  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100